

Message Text

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IO/UNP - L. HAGE
EUR/SOV - L. WILLEMS
L/M - H. SHAMWELL
L - J. MICHEL
L/UNA - D. STEWART
S/CPR - R. GOOKIN

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TO USMISSION USUN NEW YORK
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SUBJECT: SUIT FILED AGAINST SOVIET MISSION OVER
MALIK AUTO ACCIDENT OF MARCH 14, 1976

REF: USUN 1210

1. THERE FOLLOWS TEXT FOR USUN REPLY TO THE NOTE
RECEIVED FROM SMUN CONCERNING THE SUIT FILED AGAINST
SMUN AND ORLOV AS A RESULT OF THE MALIK AUTO ACCIDENT:

BEGIN TEXT

THE MISSION OF THE UNITED STATES OF AMERICA TO THE UNITED
NATIONS REFERS TO THE NOTE, DATED MARCH 24, 1978, OF THE
PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST RE-
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PUBLICS TO THE UNITED NATIONS WHICH, IN CONNECTION WITH THE
SUIT FILED BY SOWINSKI AGAINST KERLEY, THE PERMANENT
MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE
UNITED NATIONS, AND VASILY L. ORLOV, ASKS THE MISSION OF
THE UNITED STATES OF AMERICA TO THE UNITED NATIONS TO DRAW
THE ATTENTION OF THE NASSAU COUNTY COURT TO THE FACT THAT
DIPLOMATIC MISSIONS AND THEIR STAFFS ENJOY IMMUNITY FROM

THE CIVIL AND ADMINISTRATIVE JURISDICTION OF THE RECEIVING COUNTRY AND NOTES THEIR EXPECTATION THAT THE UNITED STATES GOVERNMENT WOULD TAKE THE NECESSARY STEPS TO HALT THE

EXAMINATION OF THIS CASE IN COURT.

WITH RESPECT TO THE INCLUSION OF THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS IN THE SOWINSKI SUIT, THE MISSION OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADVISES THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS THAT IN ACCORDANCE WITH THE AGREEMENT BETWEEN THE UNITED NATIONS AND THE UNITED STATES REGARDING THE HEADQUARTERS OF THE UNITED NATIONS AND THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, THE UNITED STATES GOVERNMENT REGARDS MISSIONS TO THE UNITED NATIONS AS HAVING THE SAME STATUS AS DIPLOMATIC MISSIONS TO THE UNITED STATES FOR THE PURPOSE OF IMMUNITY FROM SUIT. IN ITS CAPACITY OF REPRESENTING THE FOREIGN GOVERNMENT, THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS WOULD THEREFORE ENJOY THE SAME IMMUNITY FROM SUIT AS A FOREIGN GOVERNMENT. THE DEFENSE OF SOVEREIGN IMMUNITY OF A FOREIGN GOVERNMENT IN A UNITED STATES COURT IS GOVERNED BY THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976 (U.S. PUBLIC LAW 94-583, 90 STAT. 2891) EFFECTIVE AS OF UNCLASSIFIED

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JANUARY 19, 1977. MOREOVER THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS IS FURTHER ADVISED THAT SECTION 1602 OF THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976 DOES NOT PERMIT THE MISSION OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS OR THE DEPARTMENT OF STATE TO EXPRESS TO THE COURT ITS CONSIDERATIONS REGARDING THE SOVEREIGN IMMUNITY OF THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS NOTWITHSTANDING THE FACT THAT THE AUTOMOBILE ACCIDENT WHICH IS THE CAUSE OF ACTION IN THE CASE UNDER REFERENCE OCCURRED PRIOR TO THE EFFECTIVE DATE OF THIS ACT. UNDER SECTION 1602 OF THIS ACT, THE UNITED STATES COURTS ALONE DETERMINE ALL CLAIMS OF SOVEREIGN IMMUNITY RAISED BY FOREIGN STATES AND THEIR AGENCIES. A COPY OF THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976 PREVIOUSLY FURNISHED TO THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS IS ATTACHED.

WITH RESPECT TO THE INCLUSION OF VASILIIY L. ORLOV, A FORMER EMPLOYEE OF THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS, AS A

DEFENDANT IN THIS SUIT, THE MISSION OF THE UNITED STATES
OF AMERICA TO THE UNITED NATIONS ADVISES THAT IT IS IS-
SUING TO THE COURT A CERTIFICATION OF THE OFFICIAL STATUS
OF MR. ORLOV AT THE TIME OF THE ACCIDENT. A COPY OF THIS

CERTIFICATION IS ATTACHED.
ATTACHMENTS AS STATED.
END TEXT.

2. PLEASE TRANSMIT TO L/EUR A COPY OF USUN'S CERTIFICA-
TION AS TO THE OFFICIAL STATUS OF ORLOV.

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